UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

ADMINISTRATIVE PROCEEDINGS RULINGS
Release No. 2704/May 21, 2015

ADMINISTRATIVE PROCEEDING
File No. 3-16463

In the Matter of AEGIS CAPITAL, LLC, CIRCLE ONE WEALTH MANAGEMENT, LLC, DIANE W. LAMM, STRATEGIC CONSULTING ADVISORS, LLC, AND DAVID I. OSUNKWO	ORDER SETTING PREHEARING SCHEDULE AND GENERAL PREHEARING RULES

The Securities and Exchange Commission issued an Order Instituting Cease-and-Desist Proceedings (OIP) in March 2015. In prior orders, I noted that all Respondents were served at latest by April 22, 2015. *Aegis Capital, LLC,* Admin. Proc. Rulings Release No. 2671, (May 13, 2015); *Aegis Capital, LLC*, Admin. Proc. Rulings Release No. 2684, 2015 SEC LEXIS 1937 (May 18, 2015). On May 19, 2015, the Acting United States Attorney for the Eastern District of New York moved to intervene in this proceeding and to stay it pending resolution of a related criminal matter. Counsel for Respondents Strategic Consulting Advisors, LLC, and David L. Osunkwo subsequently informed my Office that he intended to file an opposition to the motion to stay. That opposition is due Wednesday, May 27, 2015.

In light of counsel's intent to oppose the pending stay motion, I set the following schedule in this matter. In the event I stay this matter, the following schedule will likewise be stayed.

August 3, 2015:	Parties shall file expert reports. Any rebuttal expert reports are due three weeks after the expert report is filed.
August 10, 2015:	Parties shall file witness lists and exchange, but not file, pre-marked copies of exhibits and exhibit lists.
August 17, 2015:	Parties shall file any motions in limine and objections to exhibits and witnesses.
August 24, 2015:	Parties shall file prehearing briefs.

August 31, 2015: Parties shall file any requests for official notice, stipulations, admissions of fact, and stipulations concerning the contents, authenticity, or admissibility into evidence of documents.

September 9, 2015: Parties shall participate in a telephonic prehearing conference, if necessary, at a time to be determined.

September 16, 2015: Hearing shall be held at a venue to be determined.

The parties are reminded that they must file hard copies of all filings with the Office of the Secretary, but also that they have agreed to send each other—and this Office, when applicable—electronic copies, via e-mail, of materials to be filed and exchanged.

This order also sets forth the following general rules and guidelines I will follow during these proceedings.

1. Settlement. The parties are encouraged to consider whether this matter may be resolved through settlement. If the Division and any respondent jointly notify my Office that they require assistance in facilitating settlement negotiations and are willing to participate in good faith in confidential settlement negotiations, I will issue an appropriate order referring the matter to another Administrative Law Judge solely for purposes of settlement. Participation in any settlement negotiation is entirely voluntary. Absent extraordinary circumstances, requests of this nature must be made no later than three weeks before the scheduled hearing date.

2. Subpoenas. My general practice is to sign subpoenas the afternoon after the day they are received, absent notice of an objection. Parties should therefore review requests for subpoenas as soon as they are received. A party's motion to quash will be due within five business days of the filing of the subpoena. Any opposition to the motion to quash will be due within five business days thereafter.

3. Exhibit lists. A comprehensive exhibit list prevents other parties from being surprised in the middle of the hearing. Given this fact, exhibit lists shall be exchanged among the parties and should include all documents that a party expects to use in the hearing for any purpose. This includes documents that are relevant only for impeachment purposes or which are presumptively inadmissible. The parties should serve their opponents with any amendments to their individual exhibit lists. Because I rely on the parties' exhibit lists, the parties should provide me with a paper copy of their final exhibit lists at the beginning of the hearing. There is no need in the interim to submit exhibit lists or amendments to my office. Following the hearing, I will issue a separate order directing the parties to file a list of all exhibits, admitted and offered but not admitted, together with citations to the record indicating when each exhibit was admitted.

4. Expert reports and testimony. Expert witness disclosures must, at minimum, comply with Rule 222(b), including the provision of a "brief summary" of an expert's expected testimony. 17 C.F.R. § 201.222(a)(4), (b). Expert reports should be as specific and

detailed as those presented under Federal Rule of Civil Procedure 26(a)(2). Failure to comply with these requirements may result in the striking of an expert's report. The filing of the expert's report according to the prehearing schedule essentially constitutes the filing of the expert's direct testimony. During the hearing, the expert will not be subject to direct examination, and will simply be sworn in and proffered for cross examination. As needed, I will entertain requests for brief direct examination of a party's expert.

5. Hearing schedule. The first day of the proceeding will begin at 9:30 a.m. Unless circumstances require a different schedule, we will begin each subsequent day at 9:00 a.m. Each day of the proceeding should last until at least 5:15 p.m. I generally take one break in the morning, lasting about 15 minutes, and at least one break in the afternoon. I generally break for lunch between noon and 12:30 p.m., for about one hour and ten minutes.

6. Hearsay. Evidence that is irrelevant, immaterial, or unduly repetitious is inadmissible; all other evidence is presumptively admissible. 17 C.F.R. § 201.320. As a result, the fact that evidence constitutes hearsay goes to weight, not admissibility, and is thus a proper subject for cross-examination or post-hearing briefing.

7. Hearing issues.

   A. Examination.

      1) In general, the Division of Enforcement presents its case first, because it has the burden of proof. Respondents then present their case. If necessary, the parties may agree to proceed in some other order and may take witnesses out of order.

      2) If the Division calls a non-party witness that a Respondent also wishes to call as a witness, the Respondent should cross-examine the witness as if he or she were calling the witness in his or her own case. This means that cross-examination may exceed the scope of direct examination. This will avoid the need to recall a witness just so the witness can testify for the Respondents' case.

      3) I am flexible regarding the manner of presenting the Respondents' testimony, so long as the parties agree on it. By way of example, if the Division calls a Respondent as its last witness, the parties may agree that the Respondent's counsel will conduct the direct examination, followed by the Division's cross-examination, which may exceed the scope of direct. In the absence of any agreement, Respondents' testimony will proceed in the usual manner, *i.e.*, each Respondent will be called as a witness and examined potentially multiple times. If the Division calls a Respondent as a witness and the Respondent later testifies as part of his or her own case,

the Division's cross-examination during the Respondent's case will be limited to the scope of the direct examination.

4) In general, cross-examination may be conducted by leading questions, even as to Division witnesses that the Respondent wishes to call in his own case. Counsel may not lead his or her client, however. Thus, if a Respondent is called as a witness in the Division's case, that Respondent's counsel may not ask leading questions on cross-examination. Similarly, if a Commission employee is called as a witness for the Respondent, the Division may not ask leading questions on cross-examination.

B. Other hearing issues.

1) Avoid leading questions on direct examination. Leading questions during direct examination of a non-hostile witness are objectionable. Repeatedly having to rephrase leading questions slows down the hearing.

2) Hit the high points on cross-examination. It is a waste of time to wade into every bit of minutiae that is related to your case. Cross-examination is more effective and less stultifying if you emphasize the strong points and address tangential points quickly, if at all.

8. Pleadings. Prehearing and post-hearing briefs are limited to 14,000 words. *Cf.* 17 C.F.R. § 201.450(c) (imposing a word-limit for briefs filed before the Commission). Parties may seek leave to exceed this limit through a motion filed seven days in advance of the relevant briefing deadline. To enhance the readability of pleadings, I urge counsel to limit the use of acronyms to those that are widely known. *See* Antonin Scalia & Bryan A. Garner, Making Your Case: The Art of Persuading Judges 120-22 (2008); *Nat'l Ass'n of Regulatory Util. Comm'rs v. U.S. Dep't of Energy*, 680 F.3d 819, 820 n.1 (D.C. Cir. 2012). For the same reason, counsel should use the same font size in footnotes as that used in the body of a pleading.

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James E. Grimes
Administrative Law Judge